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IN THE

Supreme Court of the United States

OCTOBER TERM, 1927.

No. 564

MILTON E. SPRINGER, DALMACIO COSTAS AND ANSELMO HILARIO,
Petitioners,

VERSUS

THE GOVERNMENT OF THE PHILIPPINE ISLANDS,
Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF THE PHILIPPINE ISLANDS AND BRIEF IN SUPPORT THEREOF.

JOSE ABAD SANTOS,
JAMES ROSS,
QUINTIN PAREDES,
CLARO M. RECTO,
Counsel for Petitioners.

Imp. NUEVA ERA

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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1927.

No. .....

MILTON E. SPRINGER, DALMACIO COSTAS and ANSELMO HILARIO,
Petitioners,

VERSUS

THE GOVERNMENT OF THE PHILIPPINE ISLANDS,
Respondent.

To the Honorable, the Supreme Court of the United States:

Your petitioners, Milton E. Springer, Dalmacio Costas and Anselmo Hilario, respectfully pray that a writ of certiorari may issue to review the judgment of the Supreme Court of the Philippine Islands rendered April 11, 1927, in the case therein entitled "The Government of the Philippine Islands, plaintiff, *versus* Milton E. Springer, Dalmacio Costas and Anselmo Hilario, defendants," being No. 26979 in said Court.

NATURE OF THE CASE

This action was originally brought in the Supreme Court of the Philippine Islands under section

2952 of the Compiled Acts of the Philippine Commission, for the purpose of ousting the defendants, the petitioners here, from the offices of directors of the National Coal Company. The gravamen of the complaint filed in this case was the alleged invalidity of that part of section 4 of Act No. 2705, as amended by Act No. 2822, of the Philippine Legislature, under and by virtue of which the defendants were elected directors of the National Coal Company.

Act No. 2705, amended as aforesaid, is entitled "An Act to Create the National Coal Company", and the relevant parts thereof are as follows:

> "SECTION 1. A company is hereby organized, which shall be known as the National Coal Company, the principal office of which shall be in the city of Manila, and which shall exist for a period of fifty years, from and after the date of the approval of this Act.
>
> "SEC. 2. The said company shall be subject to the provisions of the Corporation Law in so far as they are not inconsistent with the provisions of this Act, and shall have the general powers mentioned in said Act and such other powers as may be necessary to enable it to prosecute the business of developing coal deposits in the Philippine Islands, and of mining, extracting, transporting, and selling the coal contained in said deposits. Said company shall have priority of rights as regards the cutting and utilization of forest products for its own use in any public forests, in accordance with the Forest Law

and the regulations and instructions now in force or which may hereafter be issued with regard to the cutting, gathering, and transportation of forest products.

"SEC. 3. The capital of said company shall be three million pesos divided into thirty thousand shares of stock having a par value of one hundred pesos each, and no stock shall be issued at less than par nor except for cash.

"SEC. 4. The Governor-General, on behalf of the Government of the Philippine Islands, shall subscribe for at least fifty-one per centum of said capital stock, and the remainder may be offered to the public. Ten per centum of the value of all stock subscribed shall be paid at the time of the subscription, and the balance thereof shall be paid at such time as shall be prescribed by the Board of Directors. The voting power of all such stock owned by the Government of the Philippine Islands shall be vested exclusively in a committee consisting of the Governor-General, the President of the Senate, and the Speaker of the House of Representatives.

"SEC. 5. The board of directors of the company shall consist of five members.

"SEC. 6. There is hereby appropriated out of the funds in the Insular Treasury not otherwise appropriated, such sum as may be necessary to pay for the stock of the National Coal Company to be acquired by the Insular Government: *Provided, however,* That the Insular Auditor shall not set up said sum on his books in full, but only such part or parts thereof as it may be necessary to invest for the development of the corporation created by this Act."

This act was passed by the Philippine Legislature, and approved March 10, 1917. It had been in

force for a number of years and acted upon by the executive officers of the Philippine Government, including the present Governor-General. By section 19 of the Philippine Autonomy Act all laws enacted by the Philippine Legislature are to be reported to Congress, which reserves power to annul them. The act under consideration was reported to Congress and has not been annulled.

The Supreme Court of the Philippine Islands (Chief Justice Avanceña and Justices Villamor and Villa-Real dissenting) held that section 4 of Act No. 2705, as amended, was invalid in so far as it purported to vest the voting power of the stock of the Philippine Government in the National Coal Company exclusively in a committee consisting of the Governor-General, the President of the Senate, and the Speaker of the House of Representatives; and that the Governor-General had authority to exercise solely the voting power of all such stock. The Court, therefore, gave judgment for the plaintiff.

MAIN POINT INVOLVED IN THE CASE

The main point in the case is whether that part of section 4 of Act No. 2705 of the Philippine Legislature, as amended by Act No. 2822 thereof, which purported to vest the voting power of the stock of the Philippine Government in the National Coal Company exclusively in a committee consisting of

the Governor-General, the President of the Senate, and the Speaker of the House of Representatives, is invalid as in conflict with the provisions of the Philippine Autonomy Act (Act of Congress of August 29, 1916), commonly known as the Jones Law.

REASONS FOR THE ALLOWANCE OF THE WRIT

It is urged that a writ of certiorari should issue for the following reasons:

1. A statute of the United States, to wit, the Philippine Autonomy Act, is involved.

2. This cause involves a question of the most vital importance arising under the Philippine Autonomy Act—a question more far reaching in its effect than the ones decided by this Honorable Court in Yu Kong Eng v. Trinidad, 271 U. S. 500, 70 L. ed. 1059; Alejandrino v. Quezon, 271 U. S. 528, 70 L. ed. 1071; Wright v. Ynchausti & Co., 71 (U. S.) L. ed. (Adv. 267); Ingenohl v. Olsen & Co., 71 (U. S.) L. ed. (Adv. 517); and Posadas v. City of Manila, No. 363, decided May 31, 1927.

3. The Supreme Court of the Philippine Islands failed to follow or give force or effect to the rulings and decisions of this Honorable Court on the legal propositions involved.

4. The question herein decided below adversely to your petitioners by a divided court, which in-

volves the legal and just construction and effect of important provisions of the Philippine Autonomy Act, should be authoritatively and finally adjudged by this Honorable Court upon and after a full presentation to the Court of the merits of the said question.

5. As more fully shown in the brief appended hereto, a full consideration of the case by this Honorable Court will tend to prevent costly and undesirable litigation, and promote justice to all concerned.

WHEREFORE, it is respectfully prayed that this petition for a writ of certiorari be granted.

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